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No. 560

In the Supreme Court of the United States

OCTOBER TERM, 1947

EARLE W. HILTON, PETITIONER

v.

JOHN L. SULLIVAN, SECRETARY OF THE NAVY, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

BRIEF FOR THE RESPONDENTS IN OPPOSITION

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OPINIONS BELOW

The memorandum opinion of the District Court of the United States for the District of Columbia (R. 52–53) is not reported. The opinion of the United States Court of Appeals for the District of Columbia (R. 54–56) has not yet been reported.

JURISDICTION

The judgment of the United States Court of Appeals for the District of Columbia was entered on December 29, 1947 (R. 57). The petition for a writ of certiorari was filed on January 30, 1948. The jurisdiction of this Court is in-

voked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Whether regulations promulgated by the Civil Service Commission pursuant to Section 12 of the Veterans' Preference Act of 1944, which give retention priority in government service to veterans over nonveterans who may have longer government service, are consistent with the general directives of the statute and were adopted in the proper exercise of discretion on the part of the Commission.

STATUTES AND REGULATIONS INVOLVED

The pertinent portions of the statutes and regulations involved are set forth in the Appendix, *infra*, pp. 19–22.

STATEMENT

Section 12 of the Veterans' Preference Act of 1944 (*infra*, p. 19) confers authority upon the Civil Service Commission to promulgate regulations governing reduction in personnel, which shall give due effect to tenure of employment, military preference, length of service and efficiency ratings. The regulations promulgated pursuant to this section (5 C. F. R. (1945 Supp.) § 12.303; *infra*, pp. 21–22), provide in general for the division of civilian government employees into the following three groups according to their tenure of employment:

Group A, permanent employees;

Group B, employees serving under appointments with a time limitation which exceeds one year;

Group C, employees serving under appointments with a time limitation of one year or less.

Group A in turn is subdivided into five sub-groups, as follows:

Sub-group A–1 plus, Veterans for a one-year period after return to duty;

Sub-group A–1, Veterans with "good" (or higher) efficiency ratings;

Sub-group A–2, Non-veterans with "good" (or higher) efficiency ratings;

Sub-group A–3, Veterans with efficiency ratings lower than "good";

Sub-group A–4, Non-veterans with efficiency ratings lower than "good" (*ibid*).

Employees in each sub-group are assigned retention credits by allowing one point for each full year of government service, including military service, plus five points for an "excellent" efficiency rating, three points for "very good," and one point for "good." 5 C. F. R. (1945 Supp.) § 12.302 (c), as amended, 12 Fed. Reg. 1291. Employees are listed in their respective sub-groups in order of their total retention points (*Id.*, § 12.307) and reductions in force are made in any competition level by starting with the lowest sub-group, *i. e.* sub-group C–4, and selecting employees for

separation in the inverse order of the number of their retention credits. *Id.*, § 12.308.

Petitioner was employed at the United States Navy Yard, Charleston, South Carolina, as a permanent employee in the classified civil service (R. 4). Because of petitioner's non-veteran status he had been placed in retention group A–2 (R. 22). On January 7, 1946, petitioner was rerated from Quarterman Shipfitter to Leadingman Shipfitter due to reduction in work at the Yard (R. 15–16). On November 8, 1946, petitioner was furloughed without pay for a period of one year because of reduction in force (R. 23–26), although competing employees in the A–1 plus and A–1 sub-groups, with less service than petitioner, were retained in active service (R. 5). At the time of his furlough, petitioner had a total of more than twelve years of government service and had an "excellent" efficiency rating (R. 25).

Petitioner thereafter brought the instant action for a declaratory judgment, mandamus, and other relief, alleging that the regulations of the Civil Service Commission established the A–1 plus and the A–1 sub-groups, giving retention preference to veterans over non-veterans "with no regard whatsoever to relative length of service [are] unreasonable, arbitrary and capricious, without statutory warrant, and contrary to the express provisions of Sec. 12 Veterans' Preference Act of 1944 * * *" and that the application of these regulations by the Secretary of Navy had unlaw-

fully deprived him of his office as Leadingman Shipfitter (R. 5).[1] After answer (R. 7–9), both petitioner and respondents moved for summary judgment on the grounds that there was no genuine issue as to any material fact, and that judgment should be entered as a matter of law (R. 10, 52). The trial court denied petitioner's motion and granted summary judgment for respondents (R. 53) on the ground that "the regulations complained of are consistent with the letter and spirit of the Veterans' Preference Act and are in harmony with the Congressional purpose as indicated by the legislative history of the act" (R. 52). On appeal, the court below affirmed, holding that the challenged regulations were a reasonable method of applying the general command of Section 12 of the Act that, when reductions of personnel are made in the government service, competing employees shall be discharged in accordance with regulations of the Civil Service Commission which shall give due effect to tenure of employment, length of service, military preference, and efficiency ratings (R. 54–56). The court said (R. 56):

> From a practical point of view, we think that Congress meant to give the Commission a wide measure of discretion in the formulation of rules to deal with the diffi-

[1] It is not contended that petitioner's separation was not effected in full compliance with the regulations promulgated by the Commission.

cult administrative problem arising from the reduction of federal employees and the complications of veterans' rights. It did not, we think, mean to foreclose the Commission by unequivocally requiring that veterans, regardless of length of service, be retained over non-veterans, regardless of length of service; or that comparatively inexperienced veterans compose the reduced federal force in preference to experienced non-veteran personnel. But we think that Congress left that difficult solution largely to the Commission, and so long as the Commission stays within the reasonable limits of the "due effect" directive, the courts must leave it there.

ARGUMENT

1. *Congress has provided a preference in retention for veterans over non-veterans.* (a) It is, of course, well settled that petitioner has no general and undefined right to retention in government service solely by virtue of his civil service status. The power of appointment which is possessed by the head of an executive department stems directly from the Constitution. Art. II, Sec. 1. While Congress may limit and restrict the power of removal (*United States* v. *Perkins,* 116 U. S. 483, 485), the normal rule is that, absent any express contrary provision, the power of removal is an incident of, and follows, the power of appointment. *Parsons* v. *United States,* 167 U. S. 324; see *Blake* v. *United States,* 103 U. S. 227, 231;

Keim v. *United States*, 177 U. S. 290, 293–294; *Myers* v. *United States*, 272 U. S. 52, 160–161. Such right as petitioner may have to retention in the government service therefore must be a right which is specifically conferred by statute.[2] Further, it has been the settled policy of the United States for a period of over 70 years to extend benefits with respect to employment and retention in government service to those who have served in its armed forces. Cf. Act of March 3, 1865 (13 Stat. 571); Act of August 15, 1876, sec. 3 (19 Stat. 169); Act of August 23, 1912, sec. 4 (37 Stat. 413); Act of July 11, 1919, sec. 1 (41 Stat. 37); Act of June 18, 1929, sec. 3 (46 Stat. 21). Thus the Act of August 24, 1912, sec. 6 (37 Stat. 555), which provides that "no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service," must be

[2] The Civil Service Act of January 16, 1883 (22 Stat. 403), contains no reference to removal except for a general prohibition against removals for political reasons or on account of marital status (Act of July 26, 1937, 50 Stat. 533). The basic Act is concerned principally with the method of exercising the power of appointment and is silent as to the status and rights of employees once appointed. The Act of August 24, 1912 (37 Stat. 555), is addressed to removals "for cause" and has not been interpreted to be applicable to removals necessitated by an administrative exigency not personal to the employees. The controlling statute which restricts the exercise of the removal power vested in an appointing officer is Section 12 of the Veterans' Preference Act of 1944, wherein is prescribed the procedures and limitations which must be observed by the appointing power in making reductions in force.

read in the light of the earlier Act of August 23, 1912 (37 Stat. 413), section 4 of which provided that: "* * * in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped, or reduced in rank or salary." Even aside from the statutory mandates, it has been the policy of the Government to accord veterans preference in retention in civil service over nonveterans without regard to relative length of service, subject to the requirement of a good efficiency rating.[3] *Vis à vis*

[3] By Executive Order No. 3801 of March 3, 1923, preference for veterans in retention was extended to the field service. In Executive Order No. 4240 of June 4, 1925, length of service was given some recognition for the first time in reductions of personnel, but veterans with good efficiency ratings were still given absolute preference in retention *regardless of length of service.* Only as against veterans with efficiency ratings lower than good was a nonveteran given a right to retention by reason of greater length of service. By Executive Order No. 5068 of March 2, 1929, 5 C. F. R. 12.5, it was directed that if the efficiency rating of both veteran and nonveteran were equal but both less than good, the veteran had absolute preference for retention irrespective of length of service. In 1936, the regulations governing reduction in force were, by direction of the President, extended to government positions which were not under the Civil Service system (Departmental Circular No. 146, United States Civil Service Commission, October 22, 1936). No provision was yet made for centralized enforcement of the regulations in the field service. Authority to enforce the regulations throughout government service was finally vested in the Civil Service Commission by Executive Order No. 9063 of February 16, 1942.

a veteran, a nonveteran in the classified civil service has no vested right of retention in the event of a reduction in force.

(b) It is clear from the legislative history of section 12 of the Veterans' Preference Act that Congress intended to continue in effect the policy of according veterans absolute retention preference without regard to length of service. The report of the Committee on the Civil Service of the House of Representatives on H. R. 4115, 78th Cong., 2d sess., which became the Veterans' Preference Act, states that it was the purpose of the Committee to consolidate and to codify in one statute all of the then-existing preferences available to veterans with respect to government employment.[4] This same intention is evidenced by

[4] The report states in part:

"It has been the policy of the United States Government since the beginning of the Republic to extend certain benefits to those who have risked their lives in the armed services during wartime. Since shortly after the Civil War, the Congress has provided in various statutes for different forms of preference in governmental employment to war veterans. These statutes have usually been in broad, general terms, and have been applied under Executive orders and regulations promulgated by the President.

"For a number of years proposals have been introduced in Congress to codify or establish by statute veterans' preference in governmental employment. Your committee has conducted public hearings on this subject at least three times within the past few years. This bill is an attempt to meet the requirements of such an act. Careful consideration has been given to its provisions in the light of past legislation and practices.

"* * * The committee is of the opinion there should be

the debates in Congress (90 Cong. Rec. 3502, 3503, 3505) and by the public hearings before the Senate Committee on Civil Service (Hearings before the Committee on Civil Service, United States Senate, 78th Congress, 2d sess., on S. 1762 and H. R. 4115, pp. 8, 27). The legislative history of section 12 of the Act further demonstrates that the interpretation for which petitioner contends was expressly considered by Congress and was categorically rejected. Section 12 of H. R. 882, 78th Cong., 1st sess., the bill under consideration immediately prior to H. R. 4115, read as follows:

> SECTION 12. In any reduction in personnel in any civilian service of any Federal agency employees within each classification to be reduced shall be released in the inverse order of the length of their total service: *Provided,* That the length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing total length of service. * * *

In the successor bill, H. R. 4115, this section was deleted and the present language of section 12 was substituted.[5] Thereafter, testimony before the

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put in one statute all provisions granting military preference in connection with civilian employment by the Government, in order that there may be statutory authority for the preference to be granted veterans in connection with appointment and retention in civilian positions." (H. Rep. No. 1289 (to accompany H. R. 4115), 78th Congress, 2d sess., pp. 2–3.)

[5] That the purpose of this change was to confer upon veterans preference in retention *without regard to length of*

Civil Service Committee of the Senate, which had the bill under consideration during the course of the public hearings, pointed out that the changed provision would give preference to veterans in civil service regardless of length of service.[6]

2. *The challenged regulations precisely follow the statutory mandate and do not constitute an abuse of discretion by the Commission.* (a) In view of the nature of petitioner's right, the previous history of veterans' preference in civil service, and the legislative history of the Act, the avowed purpose of which was not to deprive veterans of any preference then existing, petitioner's argument that in establishing retention sub-group A–1 the Civil Service Commission has misconceived the law and has misapplied the standards governing its discretionary authority (Pet. 12–17) is without substance. Section 12 of the Act (Appendix, *infra*, p. 19) requires that Commission regulations governing reductions-in-force of civil

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service is evidenced by a letter from the United States Civil Service Commission to the Chairman of the Committee on the Civil Service of the House of Representatives, stating:

"SECTION 12. This section of H. R. 882 provided that in reductions of personnel, employees shall be released in the inverse order of the length of their total Federal service. In accordance with the suggestion made in the Commission's letter of January 31, 1944, this section has been amended in H. R. 4115. * * *" (H. Rep. No. 1289 (to accompany H. R. 4115), 78th Congress, 2d sess., Mar. 27, 1944, p. 6.)

[6] Hearings before the Committee on Civil Service, United States Senate, 78th Congress, 2d session, on S. 1762 and H. R. 4115, pp. 33–34.

service personnel give "due effect" to four factors: "tenure of employment, military preference, length of service, and efficiency ratings." This legislative mandate was precisely followed when the Commission issued the regulations herein challenged. These regulations require first the division of all competing employees according to their tenure of office, and give absolute preference in retention to permanent employees irrespective of all other criteria. Petitioner apparently concedes the correctness of the regulations in this respect (Pet. 13). Second, the regulations weigh retention credits on the basis of efficiency ratings. Petitioner does not challenge them in this respect. The only issue raised by the case is whether, as between the two remaining statutory criteria, length of service and military preference, the Commission abused its discretion in giving greater weight to military preference.

Contrary to petitioner's suggestion that the Commission's regulations give no effect to length of service in computing retention credits (Pet. 14), it is apparent that length of service is given adequate recognition. In the majority of cases, that is the controlling factor in determining retention in competition between veteran and veteran and nonveteran and nonveteran, since, because it is a variable factor, it affords a direct basis for comparison between competing employees. On the other hand, military preference is an absolute factor. An employee is either entitled to it or he is not. Cf.

Mitchell v. *Cohen*, Nos. 130–131, this Term. The problem thus posed is which factor should determine the issue of retention preference in the case of competition between a veteran and nonveteran. The Commission, having in view the statutory mandate to give "due effect" to all four factors, the continuous policy pursued under earlier statutes, executive and administrative orders since 1876 of giving veterans retention preference, and the legislative history of the Veterans' Preference Act, resolved this problem in favor of the veteran.[7] We believe that such a decision was clearly within the Commission's competence. Cf. *Kirkman* v. *MacMorland et al.*, 71 F. Supp. 15, 20 (E. D. Pa.).[8] Petitioner, however, seeks a result which,

[7] This interpretation of the statute by the officer charged with its administration is of course entitled to great weight. *Gray* v. *Powell*, 314 U. S. 402, 412–413. Cf. *Social Security Board* v. *Nierotko*, 327 U. S. 358, 368.

[8] Petitioner urges that Section 12 provides on its face the factors which shall be given reasonable effect in determining retention in civil service, and that in no circumstances can the regulations as issued be said to fall within these (Pet. 14). Then, apparently assuming his major premise, he argues that Congress could have meant to grant "absolute preference" only where it had specifically so provided. We agree with petitioner that the Act should be construed as a whole. However, we submit that his reference to the provisions of §§ 2 and 7 which deal with the entrance of personnel into government service, cannot be read over into § 12 which deals with reduction in force. Section 2 is general in scope and defines the persons who shall be entitled to military preference in "certification for appointment, in appointment, in reinstatement, in reemployment, and in retention in civilian positions" in the various establishments of the Government. Section 3

in the case of a competing veteran and nonveteran with identical tenure and efficiency ratings, would give retention preference to the nonveteran by reason of his greater length of service, and that only when their length of service is equal should

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specifies that in all examinations to determine qualifications *for entrance* into the service disabled ex-service men and women, the wives of disabled ex-service men who cannot themselves qualify, and their widows shall have ten points added to their earned ratings. Ex-service men and women who have served in any branch of the armed forces of the United States, during any war, or in any campaign or expedition for which a campaign badge has been authorized, and have been honorably discharged are entitled to have five points added to their ratings. Section 7 provides that the names of preference eligibles shall be entered on the appropriate registers or lists of eligibles in accordance with their respective augmented ratings (as provided by section 3), ahead of all others having the same rating. This clearly refers only to *entrance* registers and lists and could have no possible bearing on *retention* registers. Even assuming that section 7 applies to section 12 by analogy, there is no basis for appellant's argument. Section 7 and section 12 are similar in structure. Section 7, as previously stated, first specifies the manner in which the names of all preference eligibles shall be entered on the appropriate appointment registers and lists of eligibles for entrance into the service. This procedure is then limited by a proviso, apparently overlooked by appellant, to the effect that preference eligibles except in the professional and scientific services entitled to ten points (disabled ex-service men, their wives and widows) *shall be placed at the top of the appropriate register* in accordance with, that is, in the order of, their respective augmented ratings. Thus the proviso of section 7 gives disabled ex-service men, their wives and widows, except in the professional and scientific service, an *absolute preference in entering federal service* just as the second proviso of section 12 gives preference eligibles with an efficiency rating of "good" or better an absolute preference in retention in federal service.

military preference determine the issue. In view of long established policy of the Government with respect to granting veterans retention preference, we submit that such a result would substantially nullify the Act.[9]

(b) Petitioner attacks chiefly that portion of the challenged regulations establishing retention preference for sub-group A–1 plus (Pet. 8–12). He urges that this case is a vehicle for the determination of whether or not sub-group A–1 plus is required by law (Pet. 9), and argues (1) that it is not required either by section 8 of the Selective Service Act (Appendix, *infra,* pp. 20–21) or by section 12 of the Veterans' Preference Act (Pet. 9–11), and (2) that it could not be validly established as a matter of administrative discretion under section 12 of the Veterans' Preference Act (Pet. 11–12).[10] We do not deem it necessary to

[9] If, as petitioner contends, the regulations of the Commission are objectionable because they do not give "due effect" to length of service, his position would be equally objectionable on the ground that it would not give "due effect" to military preference.

[10] Petitioner apparently argues that even if respondent's interpretation of the statute is correct, still this Court may grant relief sought since 61 of the personnel in sub-group A–1 plus had "no efficiency" ratings, and that hence there was no statutory authority for placing them in a retention classification above him. We are advised that all persons classified as Leadi: gman Shipfitter, which was a supervisory position, had worked their way up from lower positions and had demonstrated ability before they had been promoted to that classification. It was regarded as administratively unneces-

engage in any extended discussion regarding the validity of the "A–1 plus" category. All employees classified therein are veterans and, as we have shown above, are entitled to retention preference prior to petitioner. There thus exists no necessity for considering the rationale of the decisions of this Court in *Fishgold* v. *Sullivan Drydock & Repair Corp.*, 328 U. S. 275, and in *Trailmobile Company* v. *Whirls*, 331 U. S. 40. Those cases dealt exclusively with veterans' rights to preference in private industry under section 8 of the Selective Training and Service Act of 1940. Here the right of retention relates to federal employment and further involves primarily the Veterans' Preference Act of 1944, an act which was totally inapplicable in the *Fishgold* and *Whirls* cases. Cf. 40 Op. A. G. No. 115.

3. *The challenged regulations should not be set aside by this Court.* Since the regulations, granting of preference to veterans in retention in government service, follow a well-established policy of long standing, they should not be overthrown except for cogent reasons. Cf. *United States* v. *Philbrick*, 120 U. S. 52, 59; *United States* v. *Hill*, 120 U. S. 169, 182; *Robertson* v. *Downing*, 127 U. S. 607, 613; *United States* v. *Chicago North*

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sary to give all men who came within the A–1 plus category an efficiency rating prior to the expiration of their year of absolute preference. There is nothing to show that they would not all have been given a "good" or better efficiency rating, based on past services, had it been necessary to do so at the time of their reemployment.

Shore R. Co., 288 U. S. 1, 13; *New York, C. & St. L. R. Co.* v. *Frank*, 314 U. S. 360, 372–373. No such reasons here exist. We do not attempt to minimize the gravity of the loss sustained by a non-veteran in being separated from government employment after many years of faithful service. That, however, is a hardship which is solely within the power of Congress to relieve. And Congress is cognizant of the fact that non-veterans with many years of service are being discharged as a result of the operation of Section 12 of the Act.[11] However, it has not seen fit to enact any amendment to the Act. Finally petitioner argues (Pet. 14–15) that, inasmuch as the court below has held that the Commission was not legally required to adopt the present regulations, they are not entitled to the weight which would be accorded them if they constituted an expression of the Commission's informed discretion and that they should, accordingly, be set aside. While we argued below, and still believe, that the statutes involved required the Commission to act as it did, we are not presently seeking review of the contrary holding below, although we shall urge that point should certiorari be granted. The Commission presently is at liberty to change its regulations if it believes such action to be desirable or appropriate. The

[11] The Act of August 8, 1946, 60 Stat. 939, granted special pensions to employees over fifty-five years of age who are involuntarily separated in reduction of force after twenty-five years of service.

challenged regulations are now in force solely because the Commission so desires, and constitute accordingly a voluntary expression of the Commission's views. The most that could be accomplished by setting aside the present regulations would be to inform the Commission that it is at liberty to adopt different ones if it concluded that it is desirable to do so. But this has been accomplished by the decision below. We submit accordingly that no further action by this Court is required.

CONCLUSION

The decision below is correct and there is no conflict. Petitioner's essential complaint is directed to the Congressional policy of giving preference to veterans. The petition for a writ of certiorari should therefore be denied.

Respectfully submitted.

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FEBRUARY 1948.

APPENDIX

The Veterans Preference Act of June 27, 1944, 58 Stat. 387, provides in part:

> SEC. 12. In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference, length of service, and efficiency ratings: *Provided,* That the length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing length of total service: *Provided further,* That preference employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings: *And provided further,* That when any or all of the functions of any agency are transferred to, or when any agency is replaced by, some other agency, or agencies, all preference employees in the function or functions transferred or in the agency which is replaced by some other agency shall first be transferred to the replacing agency, or agencies, for employment in positions for which they are qualified, before such agency, or agencies, shall appoint additional employees from any other source for such positions.
>
> * * * * * *

The Selective Training and Service Act of September 16, 1940, 54 Stat. 885, provides in part:

SEC. 8. (a) Any person inducted into the land or naval forces under this Act for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 3 (b) shall be entitled to a certificate to that effect upon the completion of such period of training and service, which shall include a record of any special proficiency or merit attained. * * *

(b) In the case of any such person who, in order to perform such training and service, has left or leaves a position, other than a temporary position, in the employ of any employer and who (1) receives such certificate, (2) is still qualified to perform the duties of such position, and (3) makes application for reemployment within forty days after he is relieved from such training and service—

(A) if such position was in the employ of the United States Government, its Territories or possessions, or the District of Columbia, such person shall be restored to such position or to a position of like seniority, status, and pay;

* * * * *

(c) Any person who is restored to a position in accordance with the provisions of paragraph (A) * * * of subsection (b) shall be considered as having been on furlough or leave of absence during his period of training and service in the land or naval forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on

furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration.

* * * * * *

The pertinent regulations of the Civil Service Commission promulgated pursuant to § 12 of the Veterans' Preference Act, *supra*, provide:

Retention preference; classification. For the purpose of determining relative retention preference in reductions in force, employees shall be classified according to tenure of employment in competitive retention groups and subgroups, as follows:

Group A: All employees who have met all requirements for indefinite retention in their present positions. With respect to positions subject to the Civil Service Act and rules, this includes all employees currently serving under absolute or probational civil service appointments or who were appointed, reappointed, transferred or promoted from absolute or probational civil service appointments to war service indefinite or trial period appointments without a break in service of thirty days or more. With respect to positions excepted from the Civil Service Act and rules, this includes all employees currently serving under appointments without time limitation.

A–1 Plus during one-year period after return to duty, as required by law.

A–1 With veteran preference unless efficiency rating is less than "Good."

A–2 Without veteran preference unless efficiency rating is less than "Good."

A–3 With veteran preference where efficiency rating is less than "Good."

A–4 Without veteran preference where efficiency rating is less than "Good."

Group B: All employees serving under appointments limited to the duration of the present war or for the duration of the war and not to exceed six months thereafter, or otherwise limited in time to a period in excess of one year, except those specifically covered in Groups A and C.

B–1 With veteran preference unless efficiency rating is less than "Good."

B–2 Without veteran preference unless efficiency rating is less than "Good."

B–3 With veteran preference where efficiency rating is less than "Good."

B–4 Without veteran preference where efficiency rating is less than "Good."

Group C: All employees serving under appointments specifically limited to one year or less, all non-citizen employees serving within the continental limits of the United States, all employees continued beyond the automatic retirement age, and all annuitants appointed under section 2 (b) of the Civil Service Retirement Act, as amended.

C–1 With veteran preference unless efficiency rating is less than "Good."

C–2 Without veteran preference unless efficiency rating is less than "Good."

C–3 With veteran preference where efficiency rating is less than "Good."

C–4 Without veteran preference where efficiency rating is less than "Good." (5 C. F. R. (1945 Supp.) § 12.303)

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